IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7435 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VIPULAM ENTERPRISES LTD

Versus

G S F C

Appearance:

1. Special Civil Application No. 7435 of 1995

MR PK JANI for Petitioner No. 1-2

MR RD DAVE for Respondent No. 1

MR RC KODEKAR for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 21/04/2005

ORAL JUDGEMENT

By filing this petition, the petitioners have prayed that the action of the Gujarat State Financial Corporation in putting the petitioner's factory to auction is illegal and that the Gujarat State Financial Corporation may be directed to hand over possession of the Company back to the petitioner-Company.

At the time of admitting this petition, learned Single Judge of this Court had granted interim relief on a condition that the petitioner shall make payment of Rs. 5 lakhs by 30th November 1995 and a further amount of Rs. 5 lakhs by 7th of every month until the total sum of Rs. 50,75,557/- is paid, inclusive of Rs. 12 lakhs already paid by the petitioner. In the interim order, this Court had also directed that on such payment, the possession of the property in question will be handed over by the respondent Corporation to the petitioners. At the time of hearing of this petition, it is pointed out by learned advocate Shri Dave, who is appearing for Gujarat State Financial Corporation, that the petitioners had given few cheques of Rs. 5 lakhs towards first instalment as per the order of the learned Single Judge but the said cheques were dishonoured. It has been pointed out that the petitioner has not paid any amount thereafter. Learned advocate Shri Dave has further submitted that subsequently the Gujarat State Financial Corporation has sold the property in question by way of public auction and one person has already purchased the same. He has relied upon a copy of the sale deed dated 17th July, 2000. He has submitted that the purchaser has already taken possession since long and according to learned advocate Mr. Dave, this petition has become infructuous as the petitioner himself has failed to deposit any further amount as directed by the learned Single Judge of this Court at the time of admitting this petition.

Learned advocate Shri P.K. Jani appearing for the petitioners, on the other hand, has submitted that he has not received any information from his client and according to him the papers are also taken away by his client.

Considering the aforesaid aspect, in my view, since the petitioners have failed to comply with the interim order and since the property has already been auctioned and the purchaser has already taken possession as back as in the year 2000, no relief can be given to the petitioners in this petition. The petition has therefore become infructuous because of the subsequent event.

In view of what is stated above, the petition is required to be rejected and the matter is accordingly rejected. However, it would be open to the petitioners to move in case of difficulty as learned advocate Shri Jani has submitted that he is not having latest instruction in the matter. Rule is discharged with no order as to costs. Ad-interim relief granted earlier stands vacated.

(P.B. MAJMUDAR, J.)

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